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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Charles W. Berthoud

Serial No.: 10/041,146

Filed: January 4, 2002

For: A PERFORMANCE INDICATION SYSTEM FOR USE WITH A  
UNIVERSAL SERIAL BUS SIGNAL AND A METHOD OF  
OPERATION THEREOF

Grp./A.U.: 2116

Examiner: Tse W. Chen

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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ATTENTION: Board of Patent Appeals and Interferences

Sirs:

**APPEAL BRIEF UNDER 37 C.F.R. §41.37**

This is an appeal from a Final Rejection dated April 26, 2005, of Claims 1-21. The Appellant submits this Brief with the statutory fee of \$500.00 as set forth in 37 C.F.R. §41.20(b)(2), and hereby authorize the Commissioner to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 08-2395.

This Brief contains these items under the following headings, and in the order set forth below in accordance with 37 C.F.R. §41.37(c)(1):

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## I. REAL PARTY IN INTEREST

The real party in interest in this appeal is the Assignee, Agere Systems Inc.

## II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

## III. STATUS OF THE CLAIMS

Claims 1-21 are pending in this application and have been rejected under 35 U.S.C. §103(a). Each of the pending claims are being appealed.

## IV. STATUS OF THE AMENDMENTS

The present Application was filed on January 4, 2002. The Appellant filed a first Amendment on March 17, 2005, in response to a first Examiner's Action mailed December 17, 2004. The Examiner entered the first Amendment and subsequently issued a Final Rejection on April 26, 2005. The Appellant then filed a Notice of Appeal and a Pre-Appeal Brief Request for Review on July 26, 2005.

## V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is directed, in general, to computing systems and, more specifically, to a performance indication system for detecting the data transfer rate of a connection employing a signal compliant with a Universal Serial Bus (USB) and a method of operating the same. (*See* paragraph 1, page 1.) The present invention introduces a performance indication system for use with a USB such as a USB Specification Revision 2.0 (USB 2.0) signal. (*See* paragraph 9, page 4.)

Independent Claim 1 is directed to a performance indication system for use with a USB signal including: (1) a rate discrimination subsystem configured to provide a determination of a data transfer rate of the USB signal corresponding to a full-speed operation and a high-speed operation and (2) a condition indication subsystem coupled to the rate discrimination subsystem and configured to indicate the data transfer rate to a user. (*See* paragraph 9, page 4; paragraphs 23-24, page 9; and Figures 2A-2B.)

In one embodiment, a USB 2.0 terminator 234 includes a performance indication system 260 having a rate discrimination subsystem 270 and a condition indication subsystem 280. (*See* paragraph 31 and Figures 2A, 2B.) In this embodiment, the rate discrimination subsystem 270 determines the transfer rate of data (a USB 2.0 signal) through a USB 2.0 cable 238. The rate discrimination subsystem 270 may determine the data transfer rate associated with an outcome of a chirping process that involves an exchange of data transfer rate capability between, for instance, the central processing unit 210 and the peripheral device 220 of Figure 2A. Once determined, the outcome of the chirping process may be coupled with the rate discrimination subsystem 270 to determine the data transfer rate. (*See* paragraph 32 and Figures 2A, 2B.) Additionally, the rate discrimination system 270 may use a control pin to determine either a full-speed or a high-speed data transfer rate. (*See* paragraph 33, page 14.)

The condition indication subsystem 280 provides an indication of either a full-speed or high-speed data transfer rate to a user. In the illustrated embodiment, the condition indication subsystem 280 employs the full-speed visual indicator 284 and the high-speed visual indicator 288 to indicate the data transfer rate. The full-speed visual indicator 284 and the high-speed visual indicator 288 may be conventional light emitting diodes (LEDs). (*See* paragraph 34, page 14 and Figure 2B.)

Independent Claim 8 is directed to a method of operating a performance indication system for use with a USB signal, including: (1) determining a data transfer rate of the USB signal corresponding to a full-speed operation and a high-speed operation and (2) indicating the data transfer rate to a user. (See paragraph 10, page 4; paragraph 37, page 15 and Figure 3.)

In one embodiment illustrated in Figure 3, a rate discrimination subsystem determines if a data transfer rate of a USB 2.0 signal is at full-speed. The rate discrimination subsystem may determine the data transfer rate through circuitry contained in a USB 2.0 cable assembly. In other embodiments, however, a control signal associated with the USB 2.0 signal may be employed to determine the data transfer rate. (See paragraph 39, page 16 and Figure 3.)

Indicating the data transfer rate to a user may be through circuitry associated with a USB 2.0 cable assembly, circuitry associated with a peripheral device or circuitry associated with a central processing unit. In one embodiment, indicating the data transfer rate to a user may be accomplished by employing a visual display. In alternative embodiments, at least a portion of indicating the data transfer rate may employ an audible device. (See paragraph 40, page 16 and Figure 3.)

Independent Claim 15 is directed to a computer system, including: (1) a central processing unit associated with a keyboard, a pointing device and a monitor and (2) a performance indication system. The performance indication system includes: (2A) a rate discrimination subsystem that is configured to provide a determination of a data transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation and (2B) a condition indication subsystem, coupled to the rate discrimination subsystem, that is configured to indicate the data transfer rate to a user. (See paragraph 11, pages 4-5; paragraphs 18-19, pages 7-8; and Figure 1.)

In one embodiment, a computer system 100 includes a central processing unit 110, a keyboard 120, a pointing device 130, a monitor 140 having a visual display 190, a USB 2.0 cable assembly 175 and a peripheral device 180 having an audible device 195. (See paragraph 18, page 7 and Figure 1.) The computer system 100 further includes a performance indication system 105 that includes a rate discrimination subsystem and a condition indication subsystem (not shown in FIGURE 1). The rate discrimination subsystem is configured to provide a determination of a data transfer rate of a USB 2.0 signal corresponding to a full-speed operation and a high-speed operation. The condition indication subsystem is coupled to the rate discriminating subsystem and is configured to provide a signal indicating the data transfer rate to a user. (See paragraph 19, pages 7-8 and Figures 1 and 2B.)

Regarding the dependent claims, in one embodiment, determining and indicating the data transfer rate to a user may be performed in circuitry contained in a USB cable assembly, such as, the USB cable assembly 250. (See Claims 2, 9 and 16; paragraph 31, pages 12-13 and Figure 2B.) Additionally, determining a data transfer rate and indicating the data transfer rate to a user may be performed in circuitry contained in a peripheral device, such as, the peripheral device 220. (See Claims 3, 10 and 17; paragraph 28, page 11; paragraphs 39-40, page 16; and Figure 2A.) Support for the subject matter of dependent Claims 4-7, 11-14 and 18-21 has been discussed above regarding independent Claims 1, 8 and 15.

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The first issue presented for consideration in this appeal is whether Claims 1, 4, 7-8, 11, 14-15, 18 and 21 as rejected by the Examiner, are patentably nonobvious in accordance with

35 U.S.C. §103(a) over U.S. Patent No. 6,308,215 to Kolbet, *et al.*, (“Kolbet”) in view of U.S. Patent No. 5,469,746 to Fukunaga. The second issue presented for consideration in this appeal is whether Claims 2, 9 and 16 as rejected by the Examiner, are patentably nonobvious in accordance with 35 U.S.C. §103(a) over Kolbet and Fukunaga in view of U.S. Patent No. 4,402,271 to Heidmann, *et al.* (“Heidmann”). The third issue presented for consideration in this appeal is whether Claims 3, 10 and 17 as rejected by the Examiner, are patentably nonobvious in accordance with 35 U.S.C. §103(a) over Kolbet and Fukunaga in view of U.S. Patent No. 6,542,946 to Wooten (“Wooten”). The fourth issue presented for consideration in this appeal is whether Claims 5, 12 and 19 as rejected by the Examiner, are patentably nonobvious in accordance with 35 U.S.C. §103(a) over Kolbet and Fukunaga in view of U.S. Patent No. 5,365,577 to Davis, *et al.* The fifth issue presented for consideration in this appeal is whether Claims 6, 13 and 20 as rejected by the Examiner, are patentably nonobvious in accordance with 35 U.S.C. §103(a) over Kolbet and Fukunaga in view of U.S. Patent Application Publication No. 2003/0026183 by Kitagawa.

## VII. APPELLANT’S ARGUMENT

The inventions set forth in independent Claims 1, 8 and 15 and their respective dependent claims are not obvious over the references on which the Examiner relies.

### Rejection under 35 U.S.C. 103(a) over Kolbet in view of Fukunaga

#### A. Rejection of Claims 1, 8 and 15

The Examiner has rejected Claims 1, 8 and 15 under 35 U.S.C. §103(a) as being unpatentable over Kolbet in view of Fukunaga. The Appellant respectfully disagrees since the cited combination of Kolbet and Fukunaga does not teach or suggest operating a performance

indication system for use with a USB signal, including indicating a transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation to a user as recited in independent Claims 1, 8 and 15.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellant's disclosure.

Regarding the above third criteria, Kolbet is directed to extending cable lengths of USB linkage between computer units. (See column 1, lines 58-66.) Kolbet discloses a speed indicator signal that represents a selected speed of USB signals between extender ports. (See column 2, lines 53-63.) The speed indicator signals are employed by a controller associated with the extender ports and used in transmitting USB signals between the extender ports. (See column 2, lines 27-37 and lines 53-56; column 7, lines 61-62; and column 8, line 56 to column 9, line 6.) Thus, as recognized by the Examiner, while Kolbet may indicate a signal speed, Kolbet does not teach or suggest indicating a data transfer rate to a user as recited in independent Claims 1, 8 and 15. (See Examiner's Final Rejection, page 3.)

To teach indicating a transfer rate to a user, the Examiner cites Fukunaga. (See Final Rejection, page 3.) Fukunaga is directed to an electronic flow meter. (See column 1, lines 6-8.) The electronic flow meter includes a display 140 that provides a visual output of an

electromagnetic flow meter. (See column 3, line 66 to column 4, line 36 and column 8, lines 11-18.) Fukunaga provides no teaching or suggestion, however, that the visual output indicates a transfer rate corresponding to a full-speed operation and a high-speed operation. On the contrary, the display 140 provides an instantaneous flow rate of a fluid through a transmission line. (See column 1, lines 11-21; column 4, lines 1-36; column 15, lines 58-65 and Figure 1.) Thus, instead of indicating to a user a transfer rate corresponding to one of two operation speeds, Fukunaga displays a continuously variable flow rate of a fluid through a transmission line. Accordingly, neither Kolbet nor Fukunaga, individually or in combination, teach or suggest indicating a transfer rate to a user as recited in independent Claims 1, 8 and 15 where the transfer rate is a determined transfer rate corresponding to a full-speed operation and a high-speed operation.

Regarding the first criteria stated above that is required to establish a *prima facie* case of obviousness, there is also no suggestion or motivation in either Kolbet, Fukunaga or in the knowledge generally available to one of ordinary skill in the art to modify the teachings of Kolbet or Fukunaga or to combine the teachings of Kolbet or Fukunaga to arrive at the present invention as recited in independent Claims 1, 8 and 15. Neither Kolbet, Fukunaga nor the knowledge generally available to one of ordinary skill in the art provide a suggestion or motivation to modify the teachings of Kolbet or Fukunaga or to combine the teachings of Kolbet or Fukunaga to arrive at the present invention as claimed. On the contrary, Kolbet provides no motivation to modify its teaching of extending USB linkage to display a rate of a USB signal to a user. Instead, Kolbet teaches a speed indicator signal is used by computer equipment (*i.e.*, extender ports) for transmitting USB signals. (See column 2, lines 27-63 and column 8, line 56 to column 9, line 6.) Thus, Kolbet has no need to indicate a USB signal rate to a user since the

speed indicator signal is used internally by the computer equipment. As such, additional equipment, that would not contribute to extending USB linkage, would be required to indicate the speed indicator signal to a user. Fukunaga also provides no motivation to modify its teaching of a electromagnetic flow meter for fluids to display a transfer rate of a USB signal to a user. Instead, Fukunaga is concerned with providing an improved flow meter for fluids that is highly noise-proof. (*See* column 2, lines 14-21.)

Furthermore, there is no motivation to combine Kolbet and Fukunaga since Kolbet is directed to extending USB linkage and Fukunaga is directed to flow meters for fluids. In fact, Fukunaga presents no association with USB signals. Thus, not only does the cited combination of Kolbet and Fukunaga fail to teach or suggest each element of independent Claims 1, 8 and 15, but the cited combination of these references is also improper. Accordingly, independent Claims 1, 8 and 15 are nonobvious over Kolbet and Fukunaga and the Appellant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of Claims 1, 8 and 15.

#### B. Rejection of Claims 4, 11 and 18

The Examiner has rejected Claims 4, 11 and 18 under 35 U.S.C. §103(a) as being unpatentable over the cited combination of Kolbet in view of Fukunaga. The above argument establishing the nonobviousness of independent Claims 1, 8 and 15 is incorporated herein by reference. Dependent Claims 4, 11 and 18 additionally require that at least a portion of the indicating the data transfer rate employs a visual display, and thereby introduces a patentably distinct element in addition to the elements recited in Claims 1, 8 and 15, respectively. Kolbet and Fukunaga, however, do not teach or suggest that at least a portion of the indicating the data

transfer rate employs a visual display in combination with the base claim limitations. Thus, the cited combination of Kolbet and Fukunaga does not establish a *prima facie* case of obviousness of dependent Claims 4, 11 and 18. Accordingly, Claims 4, 11 and 18 are nonobvious over Kolbet and Fukunaga and the Appellant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of Claims 4, 11 and 18.

#### C. Rejection of Claims 7, 14 and 21

The Examiner has rejected Claims 7, 14 and 21 under 35 U.S.C. §103(a) as being unpatentable over the cited combination of Kolbet in view of Fukunaga. The above argument establishing the nonobviousness of independent Claims 1, 8 and 15 is incorporated herein by reference. Dependent Claims 7, 14 and 21 additionally require that determining of the data transfer rate employs a control signal associated with the USB signal, and thereby introduces a patentably distinct element in addition to the elements recited in Claims 1, 8 and 15, respectively. Kolbet and Fukunaga, however, do not teach or suggest determining of the data transfer rate employs a control signal associated with the USB signal in combination with the base claim limitations. Thus, the cited combination of Kolbet and Fukunaga does not establish a *prima facie* case of obviousness of dependent Claims 7, 14 and 21. Accordingly, Claims 7, 14 and 21 are nonobvious over Kolbet and Fukunaga and the Appellant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of Claims 7, 14 and 21.

#### Rejection under 35 U.S.C. 103(a) over Kolbet in view of Fukunaga and Heidmann

##### A. Rejection of Claims 2, 9 and 16

The Examiner has rejected Claims 2, 9 and 16 under 35 U.S.C. §103(e) as being unpatentable over the cited combination of Kolbet in view of Fukunaga and in further view of

Heidmann. The above argument establishing the nonobviousness of independent Claims 1, 8 and 15 is incorporated herein by reference. Dependent Claims 2, 9 and 16 additionally require that determining and the indicating is performed in circuitry contained in a USB cable assembly, and thereby introduce a patentably distinct element in addition to the elements recited in Claims 1, 8 and 15, respectively. As recognized by the Examiner, the combination of Kolbet and Fukunaga does not teach or suggest that determining and the indicating is performed in circuitry contained in a USB cable assembly. Accordingly, the Examiner cites Heidmann. Heidmann, however, has not been cited to cure the other deficiencies of Kolbet and Fukunaga discussed above with respect to independent Claims 1, 8 and 15. (See Final Rejection, pages 4-5.) Additionally, the Appellant does not find where Heidmann teaches operating a performance indication system for use with a USB signal, including indicating a transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation to a user as recited in independent Claims 1, 8 and 15. On the contrary, Heidmann is directed to anti-tank mines with a wide area of action including a means for detecting a target of a tracked-vehicle and a mine body having a pyrotechnical charge. (See the Abstract and column 1, lines 5-8.)

Thus, the cited combination of Kolbet, Fukunaga and Heidmann does not teach or suggest all of the elements of the inventions of independent Claims 1, 8 and 15 and thus, does not establish a *prima facie* case of obviousness of dependent Claims 2, 9 and 16, which include the elements of the respective independent claims. Accordingly, Claims 2, 9 and 16 are nonobvious over Kolbet in view of Fukunaga and in further view of Heidmann. The Appellant, therefore, respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of Claims 2, 9 and 16.

Rejection under 35 U.S.C. 103(a) over Kolbet in view of Fukunaga and Wooten

A. Rejection of Claims 3, 10 and 17

The Examiner has rejected Claims 3, 10 and 17 under 35 U.S.C. §103(e) as being unpatentable over the cited combination of Kolbet in view of Fukunaga and in further view of Wooten. The above argument establishing the nonobviousness of independent Claims 1, 8 and 15 is incorporated herein by reference. Dependent Claims 3, 10 and 17 additionally require that determining and the indicating is performed in circuitry contained in a peripheral device, and thereby introduce a patentably distinct element in addition to the elements recited in Claims 1, 8 and 15, respectively. As recognized by the Examiner, the combination of Kolbet and Fukunaga does not teach or suggest that determining and the indicating is performed in circuitry contained in a peripheral device. Accordingly, the Examiner cites Wooten. Wooten, however, has not been cited to cure the other deficiencies of Kolbet and Fukunaga discussed above with respect to independent Claims 1, 8 and 15. (See Examiner's Final Rejection, pages 4-5.) Wooten is directed to a dual mode differential transceiver for use in a USB to permit both full speed and high speed data transfers to occur. (See column 1, lines 18-23.) The Appellant does not find, however, where Wooten teaches or suggests indicating a transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation to a user as recited in independent Claims 1, 8 and 15. Thus, the cited combination of Kolbet, Fukunaga and Wooten does not teach or suggest all of the elements of the inventions of independent Claims 1, 8 and 15 and thus, does not establish a *prima facie* case of obviousness of dependent Claims 3, 10 and 17, which include the elements of the respective independent claims. Accordingly, Claims 3, 10 and 17 are nonobvious over Kolbet in view of Fukunaga and in further view of

Wooten. The Appellant, therefore, respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of Claims 3, 10 and 17.

Rejection under 35 U.S.C. 103(a) over Kolbet in view of Fukunaga and Davis

A. Rejection of Claims 5, 12 and 19

The Examiner has rejected Claims 5, 12 and 19 under 35 U.S.C. §103(e) as being unpatentable over the cited combination of Kolbet in view of Fukunaga and in further view of Davis. The above argument establishing the nonobviousness of independent Claims 1, 8 and 15 is incorporated herein by reference. Dependent Claims 5, 12 and 19 additionally require at least a portion of indicating the data transfer rate employs an audible device, and thereby introduce a patentably distinct element in addition to the elements recited in Claims 1, 8 and 15, respectively. As recognized by the Examiner, the combination of Kolbet and Fukunaga does not teach or suggest at least a portion of indicating the data transfer rate employs an audible device. Accordingly, the Examiner cites Davis. Davis, however, has not been cited to cure the other deficiencies of Kolbet and Fukunaga discussed above with respect to independent Claims 1, 8 and 15. (See Examiner's Final Rejection, pages 4-5.) Additionally, the Appellant does not find where Davis teaches or suggests indicating a transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation to a user as recited in independent Claims 1, 8 and 15. On the contrary, Davis is a telecommunication system that provides voice and data communications over a conventional telephone line that can be dynamically switched from voice mode to data mode during a single conversation. (See the Abstract and column 1, lines 13-17.) Thus, the cited combination of Kolbet, Fukunaga and Davis does not teach or suggest all of the elements of the inventions of independent Claims 1, 8 and 15 and thus, does not establish a

*prima facie* case of obviousness of dependent Claims 5, 12 and 19, which include the elements of the respective independent claims. Accordingly, Claims 5, 12 and 19 are nonobvious over Kolbet in view of Fukunaga and in further view of Davis. The Appellant, therefore, respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of Claims 5, 12 and 19.

Rejection under 35 U.S.C. 103(a) over Kolbet in view of Fukunaga and Kitagawa

A. Rejection of Claims 6, 13 and 20

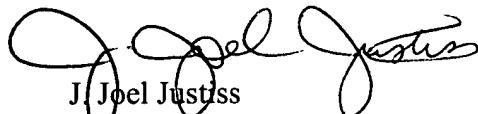
The Examiner has rejected Claims 6, 13 and 20 under 35 U.S.C. §103(e) as being unpatentable over the cited combination of Kolbet in view of Fukunaga and in further view of Kitagawa. The above argument establishing the nonobviousness of independent Claims 1, 8 and 15 is incorporated herein by reference. Dependent Claims 6, 13 and 20 additionally require that determining of the data transfer rate is based on an outcome of a chirping process, and thereby introduce a patentably distinct element in addition to the elements recited in Claims 1, 8 and 15, respectively. As recognized by the Examiner, the combination of Kolbet and Fukunaga does not teach or suggest that determining of the data transfer rate is based on an outcome of a chirping process. Accordingly, the Examiner cites Kitagawa. Kitagawa, however, has not been cited to cure the other deficiencies of Kolbet and Fukunaga discussed above with respect to independent Claims 1, 8 and 15. (See Examiner's Final Rejection, pages 4-5.) Additionally, the Appellant does not find where Kitagawa teaches or suggests indicating a transfer rate of a USB signal corresponding to a full-speed operation and a high-speed operation to a user as recited in independent Claims 1, 8 and 15. On the contrary, Kitagawa is directed to automatically changing a writing speed of an optical medium in accordance with an interface data transfer

speed. (See paragraph 2 on page 1.) Thus, the cited combination of Kolbet, Fukunaga and Kitagawa does not teach or suggest all of the elements of the inventions of independent Claims 1, 8 and 15 and thus, does not establish a *prima facie* case of obviousness of dependent Claims 6, 13 and 20, which include the elements of the respective independent claims. Accordingly, Claims 6, 13 and 20 are nonobvious over Kolbet in view of Fukunaga and in further view of Kitagawa. The Appellant, therefore, respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of Claims 6, 13 and 20.

For the reasons set forth above, the Claims on appeal are not patentably nonobvious over Kolbet in view of Fukunaga and in further view of either Heidmann, Wooten, Davis or Kitagawa. Accordingly, the Appellant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's Final Rejection of all of the Appellant's pending claims.

Respectfully submitted,

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## VIII. APPENDIX A - CLAIMS

1. For use with a Universal Serial Bus (USB) signal, a performance indication system, comprising:

a rate discrimination subsystem configured to provide a determination of a data transfer rate of said USB signal corresponding to a full-speed operation and a high-speed operation; and

a condition indication subsystem coupled to said rate discrimination subsystem and configured to indicate said data transfer rate to a user.

2. The performance indication system as recited in Claim 1 wherein at least a portion of said performance indication system is contained in a USB cable assembly.

3. The performance indication system as recited in Claim 1 wherein at least a portion of said performance indication system is contained in a peripheral device.

4. The performance indication system as recited in Claim 1 wherein said condition indication subsystem employs a visual display to indicate said data transfer rate to said user.

5. The performance indication system as recited in Claim 1 wherein said condition indication subsystem employs an audible device to indicate said data transfer rate to said user.

6. The performance indication system as recited in Claim 1 wherein said determination of said data transfer rate is based on an outcome of a chirping process.

7. The performance indication system as recited in Claim 1 wherein said rate discrimination subsystem employs a control signal associated with a USB signal for said determination of said data transfer rate.

8. A method of operating a performance indication system for use with a Universal Serial Bus (USB) signal, comprising:

determining a data transfer rate of said USB signal corresponding to a full-speed operation and a high-speed operation; and  
indicating said data transfer rate to a user.

9. The method as recited in Claim 8 wherein said determining and said indicating is performed in circuitry contained in a USB cable assembly.

10. The method as recited in Claim 8 wherein said determining and said indicating is performed in circuitry contained in a peripheral device.

11. The method as recited in Claim 8 wherein at least a portion of said indicating said data transfer rate employs a visual display.

12. The method as recited in Claim 8 wherein at least a portion of said indicating said data transfer rate employs an audible device.

13. The method as recited in Claim 8 wherein said determining of said data transfer rate is based on an outcome of a chirping process.

14. The method as recited in Claim 8 wherein said determining of said data transfer rate employs a control signal associated with said USB signal.

15. A computer system, comprising:

a central processing unit associated with a keyboard, a pointing device and a monitor; and  
a performance indication system, including:

a rate discrimination subsystem that is configured to provide a determination of a data transfer rate of a Universal Serial Bus (USB) signal corresponding to a full-speed operation and a high-speed operation; and

a condition indication subsystem, coupled to said rate discrimination subsystem, that is configured to indicate said data transfer rate to a user.

16. The computer system as recited in Claim 15 further comprising a USB cable assembly, at least a portion of said performance indication system being contained in said USB cable assembly.

17. The computer system as recited in Claim 15 further comprising a peripheral device, at least a portion of said performance indication system being contained in said peripheral device.

18. The computer system as recited in Claim 15 wherein said condition indication subsystem employs a visual display to indicate said data transfer rate to said user.

19. The computer system as recited in Claim 15 wherein said condition indication subsystem employs an audible device to indicate said data transfer rate to said user.

20. The computer system as recited in Claim 15 wherein said determination of said data transfer rate is based on an outcome of a chirping process.

21. The computer system as recited in Claim 15 wherein said rate discrimination subsystem employs a control signal associated with said USB signal for said determination of said data transfer rate.

## IX. APPENDIX B - EVIDENCE

The evidence in this appendix includes Kolbet, Fukunaga, Heidmann, Wooten, Davis and Kitagawa. Each of these patents were entered in the record by the Examiner with the December 17, 2004, Examiner's Office Action.

X. APPENDIX C - RELATED PROCEEDINGS

NONE